

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

ORDINANCE

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of ____, 2001:

Present

Vote

James S. Burgett, Chairman
Donald E. Wiggins, Vice Chairman
Walter C. Zaremba
Sheila S. Noll
H. R. Ashe

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE APPLICATION NO. PD-13-01 TO EXPAND THE RAINBROOK VILLAS PLANNED DEVELOPMENT ONTO AN ADJACENT 10.14 ACRES AND TO RECLASSIFY APPROXIMATELY 1.6 ACRES ON THE WEST SIDE OF BURTS ROAD SUBJECT TO CERTAIN CONDITIONS PROFFERED BY THE OWNERS OF THE PROPERTY

WHEREAS, Villa Development and Rainbrook Villas, L.L.C. have submitted Application No. PD-13-01 which requests amendment of the York County Zoning Map by reclassifying an approximately 10.14 acre piece of property from RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business) to PD (Planned Development) and an approximately 1.6 acre piece of property from R-20 (Medium Density Residential) to GB (General Business) located on the west side of Burts Road and further identified as Assessor's Parcel No.'s 29-18, 29-82, and portions of 29-81, 29-82B, 29-82C, 29-82D, and 29-83; and

WHEREAS, said application has been forwarded to the York County Planning Commission; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Board of Supervisors has carefully considered the public comments, Planning Commission recommendation, and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this ____ day of ____, 2001, that it does hereby approve Application No. PD-13-01 to amend the York County Zoning Map by reclassifying from an approximately 10.14 acre piece of property from RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business) to PD (Planned Development) and an approximately 1.2 acre piece of property from R-20 (Medium Density Residential) to GB (General Business) located on the west side of Burts Road and further identified as Assessor's Parcel No.'s 29-18, 29-82, and portions of 29-81, 29-82B, 29-82C, 29-82D, and 29-83 and more fully identified and described as follows:

From RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business to PD (Planned Development):

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing approximately 10.14 acres and being known and designated as "Area proposed to be rezoned from RC, R-20, and GB to PD (10.14 acres)" as shown on that certain preliminary plan entitled "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, LTD., dated February 28, 2001 and more particularly described as follows:

Beginning at a point on the proposed right-of-way of the future Burts Road alignment thence proceeding along the future Burts Road right-of-way S 12°-17'-40" E 801.74 feet to a point; thence turning and leaving said future right-of-way S 74°-52'-23" W 125.81 feet to a point; thence N 77°-34'-37" W 239.36 feet to a point; thence N 17°-01'-32" W 63.43 feet to a point; thence N 73°-41'-37" W 353.76 feet to a point; thence N 06°-29'-28" W 510.11 feet to a point; thence N 80°-44'-20" E 185.97 feet to a point; the point of beginning. Said parcel being further described as the western most 441,737 SQ. FT. of properties designated as tax parcel 29-82D, 29-82, 29-82B AND 29-83 on the County of York Tax Maps; Owned by Villa Development, L.L.C., a Virginia Limited Liability Company.

From R-20 (Medium Density Residential to GB (General Business)

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing approximately 1.6 acres and being known and designated as "Area proposed to be rezoned from R-20 to GB (1.58 acres)" as shown on that certain preliminary plan entitled "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, LTD., dated February 28, 2001 and more particularly described as follows:

Beginning at a point on the proposed right-of-way of the future Burts Road alignment thence proceeding along the future Burts Road right-of-way N 12°-17'-40" W 335.71 feet to a point; thence turning and leaving said future right-of-way of Burts Road S 78°-35'-43" E 316.95 feet to a point on the western right-of-way of the existing Burts Road; thence S 07°-15'-45" W 198.87 Feet to a point, thence turning and leaving said right-of-way and running S 72°-21'-47" W 224.62 Feet to a point, the point of beginning. Said parcel being further described as the eastern most 68,975 SQ. FT. or 1.583 Acres of properties

designated as Tax Parcel 29-82C AND 29-82D on the County of York Tax Maps; Owned by Villa Development, L.L.C., a Virginia Limited Liability Company.

BE IT FURTHER ORDAINED that the following conditions shall apply to the development of the above described property under the PD classification:

1. General Layout, Design, and Density

- a. Except as specifically modified herein, a site plan shall be submitted for the development of this property and shall proceed in accordance with the plan entitled, "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, Inc., and dated 2/28/01. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as submitted or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.
- b. Except as modified herein, the layout and design of this development shall comply with the Planned Development regulations as provided in Section 24.1-360 of the York County Zoning Ordinance.
- c. The maximum number of residential units shall be 166.
- d. Street trees at least 1-1/2 inches in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along the outer loop of the interior road in Phase One of the development. Street trees at least 1-1/2 inches in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along both sides of the interior road proposed to be extended from Phase One to an intersection with realigned Burts Road.

2. Streets and Circulation

- a. Roadway design and construction shall be in substantial conformance with the Development Plan. The design and construction of all streets shall adhere to the street and roadway standards established for public streets by the County and the Virginia Department of Transportation (VDOT). The applicant shall bear responsibility for installing all roadway improvements.
- b. All streets shall be of a curb and gutter design; roll-top curb shall be permissible throughout the development.
- c. In order to provide for safe and convenient pedestrian circulation, the project shall include a four foot (4') wide sidewalk as shown on the concept plan with connections to the pedestrian trails also shown on the concept plan.

- d. Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
 - e. The developer shall dedicate to VDOT within 60 days upon notice by VDOT sufficient right-of-way on the subject property necessary for the completion of the Grafton Drive and Burts Road realignment connector (as shown on the concept plan) that is included in the County's Six-Year Secondary Road Improvement Plan.
 - f. The developer shall establish an emergency services access, acceptable to the Department of Fire and Life Safety, to Phase Two of the development. The emergency access drive shall be constructed with a compacted gravel base overlaid with a layer of soil capable of supporting grass and accommodating the weight of large fire and rescue apparatus. This connection shall also be gated and locked to prevent all access other than emergency services vehicles.
 - g. Upon completion of the Burts Road/Grafton Drive realignment, the developer shall abandon the temporary access on Route 17 (Parcel 29-18) and construct a permanent entrance to serve Phase One, acceptable to the County and VDOT, on realigned Burts Road. In addition, upon completion of the Burts Road/Grafton Drive realignment, the developer shall construct a second permanent entrance to serve Phase Two, acceptable to the County and VDOT, on realigned Burts Road.
3. Utilities and Drainage
- a. Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
 - b. A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and specifications. The applicant shall grant to the County or the City of Newport News all easements deemed necessary by the County for maintenance of such water lines.
 - c. The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.

- d. The homeowners' association shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

4. Open Space and Recreation

- a. The location and arrangement of open space shall be generally as depicted on the plan entitled, "Preliminary #11, Additional Land of Rainbrook Villas," dated 2/28/2001.
- b. A minimum of 7.4 acres of open space shall be provided. Said open space may include water management facilities, environmentally sensitive areas, roadside buffers, and recreation space.
- c. A minimum of 3.0 acres of recreation space shall be provided. Said recreation space shall be developed, at a minimum, with a pedestrian pathway, park-style benches along the pedestrian pathway, and an enclosed-screened gazebo as indicated on the master plan. The physical design of the pedestrian pathway shall be designed in such a manner as to accommodate the walking/exercise needs of active seniors and the physically challenged.
- d. The recreation area and facilities designated for the originally approved project, including the pedestrian pathway, must be developed and available for use on or before the occupancy of the twenty-fifth (25th) unit or by the end of the fifth (5th) year from the start of construction, whichever occurs first.
- e. The recreation area and facilities designated for the expansion of the project, including the pedestrian pathway, must be developed and available for use on or before the occupancy of the one hundred thirty-second (132nd) unit or by the end of the fifth year from the start of construction, whichever occurs first.
- f. The location and manner of development for the recreation area shall be fully disclosed prior to closing in plain language to all home purchasers in this development.
- g. All landscaped buffer areas shown on the master plan or required herein shall be encumbered with landscape preservation easements running to the benefit of the County or homeowners' association. Such easements shall stipulate that the described land will remain in its natural state and preclude future or additional development; such easements shall be acceptable as to content and form to the County Attorney.
- h. All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.
- i. All recreational services, facilities, and equipment shall be subject to approval by the Division of Parks and Recreation Manager for their consistency with the applicant's proffered conditions and recreational requirements as listed in the Planned Development regulations in the Zoning Ordinance.

5. Environment

- a. Prior to final plan approval, the applicant shall obtain all wetland permits required by federal and state regulations and submit copies of these permits, or evidence that such permits are unnecessary, to the Zoning Administrator.
- b. A major water quality impact study shall be submitted with the development plan consistent with the provisions stated in Section 24.1-372, Environmental Management Area Overlay District.

6. Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement entitled, "Statement of Proffers (Revised 2-22-01)," except for condition numbers 9B and 10B, which are attached hereto and made a part hereof by reference.

7. Restrictive Covenants

Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497, *Declaration of Covenants and Restrictions*, of the Zoning Ordinance.